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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA
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9 Austin Flake and Logan Flake, husband and
10 wife,

11 Plaintiffs,

12 v.

13 Joseph Michael Arpaio, in his official
14 capacity as Sheriff of the Maricopa County
15 Sheriff's Office, and in his personal
16 capacity along with his wife Ava J. Arpaio;
Maricopa County, a political subdivision of
the State of Arizona; Marie Trombi, in her
personal capacity,

17 Defendants.

No. CV-15-01132-PHX-NVW

ORDER

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19 The Court has given Plaintiffs numerous opportunities to address the specific
20 federal constitutional rights that Defendant Trombi allegedly purposefully violated and the
21 legal authorities for those rights. (*See, e.g.*, Docs. 288, 291.) At the July 6, 2018 further
22 final pretrial conference, Plaintiffs still could not identify, before the July 9, 2018 trial date,
23 evidence supporting a cognizable violation of a federal right. The trial date will
24 accordingly be vacated, and Plaintiffs will be required to prove to a summary judgment
25 standard that they have material evidence on those essential facts. Pursuant to Federal Rule
26 of Civil Procedure 56(f), the Court gives notice that it is disposed to grant summary
27 judgment. Plaintiffs will be ordered to show cause why summary judgment should not be
28 entered in favor of the remaining Defendants.

1 This Order does not prejudice Plaintiffs because the trial is being vacated, Plaintiffs
2 must already be prepared to present their evidence in the first days of trial, and this Order
3 requires them to present only evidence they otherwise would have had to present at trial at
4 that time. This is more than enough time to do that.

5 IT IS THEREFORE ORDERED that the July 9, 2018 trial date is vacated. (Doc.
6 281.)

7 IT IS FURTHER ORDERED, pursuant to Federal Rule of Civil Procedure 56(f),
8 that Plaintiffs show cause why summary judgment should not be entered against them for
9 lack of evidence of each and any of the following:

10 (1) Evidence that Defendant Trombi acted with the purpose of depriving Plaintiffs
11 of the federal constitutional right of due process;

12 (2) Evidence that Defendant Trombi acted with the purpose of depriving Plaintiffs
13 of the federal constitutional right of interstate travel;

14 (3) Evidence that Defendant Trombi acted with the purpose of depriving Plaintiffs
15 of the federal constitutional right of gainful employment;

16 (4) Evidence that would make the release condition of approval for interstate travel
17 a deprivation of federal constitutional right to interstate travel, in general or in the
18 actual circumstances of Plaintiffs' case, where permission was granted;

19 (5) Evidence that the release condition of not working in caring for dogs deprived
20 Plaintiffs of the federal constitutional right to employment, including where
21 Plaintiffs never worked in caring for dogs or ever planned to work in caring for
22 dogs; and

23 (6) Evidence that a release condition excluding specific employment is ever a denial
24 of the federal constitutional right to employment when all other employment is
25 available, including every form of employment the plaintiff has ever had.

26 IT IS FURTHER ORDERED that Plaintiffs file their evidence in response to this
27 Rule 56(f) order and any briefing they wish by no later than 5:00 p.m. on July 13, 2018.
28 Defendants may file any further evidence and any brief by noon on July 19, 2018. No

1 reply evidence is allowed. LRCiv 56.1.

2 IT IS FURTHER ORDERED that oral argument on this Rule 56(f) order is set for
3 1:30 p.m. on July 20, 2018, which order the Court may vacate after reviewing the parties'
4 filings.

5 Dated this 6th day of July, 2018.

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Neil V. Wake
Senior United States District Judge